

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ZINSSER CO., INC.,

Plaintiff,

v.

HYDE MANUFACTURING COMPANY,

Defendant.

CASE NO.

JUDGE

COMPLAINT FOR PATENT  
INFRINGEMENT

DEMAND FOR JURY TRIAL

1:03CV2052

JUDGE O'MALLEY

MAE JUDGE STREEPY

Plaintiff Zinsser Co., Inc. files this Complaint against Defendant Hyde Manufacturing Co., and hereby complains and avers as follows:

**JURISDICTION AND VENUE**

1. This is an action for patent infringement which arises under the patent laws of the United States, Title 35, United States Code, and this Court has jurisdiction pursuant to the provisions of 28 U.S.C. Sections 1331 and 1338(a).

2. Venue is proper under 28 U.S.C. Sections 1391 and 1400(b).

**THE PARTIES**

3. Plaintiff Zinsser Co., Inc. ("Zinsser") is a corporation existing under the laws of the State of New Jersey, with a principal place of business at 173 Belmont Street, Somerset, New Jersey 08875. Zinsser makes and sells paint specialty and decorating products, including wallcovering removal and surface preparation specialties, spackling and patching compounds,

shellac-based clear finishes, stain-killing primer sealers, mildew-proof interior and exterior paints, and house cleaners and mildewcides. Zinsser was formerly named William Zinsser & Co., Inc., until adopting its current corporate name on October 12, 2001.

4. Defendant Hyde Manufacturing Company, doing business as Hyde Tools, is, upon information and belief, a corporation existing under the laws of the State of Massachusetts with a principal place of business at 54 Eastford Road, Southbridge, Massachusetts 01550 ("Hyde"). Hyde makes and sells painter maintenance tools, wallcovering tools, drywall tools, and industrial hand and machine knives. Hyde regularly does business in Ohio, including selling its products in this judicial district.

5. This Court has personal jurisdiction over Hyde pursuant to the provisions of the Ohio Long Arm Statute, O.R.C. § 2307.382, and the laws of the United States.

#### **CAUSE OF ACTION**

6. On March 5, 1985, United States Letters Patent No. 4,502,223 for "HAND TOOL WITH TOOTHED ROTORS FOR DISLODGING MATERIAL FROM A SURFACE" (the "'223 Patent") was duly and legally issued naming Peter A. M. Brookfield as inventor. A true and correct copy of the '223 Patent is attached hereto as Exhibit A.

7. The '223 Patent was assigned by the inventor to Zinsser, under its former corporate name William Zinsser & Co., Inc., as of December 6, 1997, from which date until the expiration of the '223 Patent on October 19, 2002, Zinsser was the sole owner of the '223 Patent. Attached as Exhibit B is a true and correct copy of a printout from the Derwent database reflecting the recordation with the U.S. Patent and Trademark Office ("P.T.O.") of the assignment that transferred the rights in the '223 Patent to Zinsser.

8. On December 24, 1991, United States Letters Patent No. 5,074,045 for "TOOL" (the "'045 Patent") was duly and legally issued naming Peter A. M. Brookfield as inventor. A true and correct copy of the '045 Patent is attached hereto as Exhibit C.

9. The '045 Patent is assigned on its face to Paper Tiger Systems Limited of Auckland, New Zealand ("PTS"). The '045 Patent was assigned by PTS to Zinsser, under its former corporate name William Zinsser & Co., Inc., as of December 12, 1997, from which time Zinsser has been and continues to be the sole owner of the '045 Patent. Attached as Exhibit D is a true and correct copy of a printout from the Derwent database reflecting the recordation with the U.S. Patent and Trademark Office ("P.T.O.") of the assignment that transferred the rights in the '045 Patent to Zinsser.

10. Since before the expiration of the '223 Patent and until its expiration, Hyde infringed the '223 Patent by making, using, selling, and/or offering for sale the invention claimed therein in the United States, including in this judicial district, and/or induced others to do the same, in violation of the United States patent laws.

11. Hyde has been and continues to infringe the '045 Patent, by making, using, selling, and/or offering for sale the inventions claimed therein in the United States, including in this judicial district, and/or has been inducing and continues to induce others to do the same, in violation of the United States patent laws.

12. Upon information and belief, Defendant's acts of infringement have been willful, wanton, and deliberate, without license, and with full knowledge and awareness of Plaintiff's patent rights.

13. The harm to Plaintiff Zinsser within this judicial district and elsewhere in the United States resulting from the acts of infringement of the '045 Patent by Defendant set forth above, is irreparable, continuing, and not fully compensable by money damages.

14. The amount of monetary damages which Plaintiff Zinsser has suffered by the acts of Defendant set forth above cannot be determined without an accounting.

**PRAYER FOR RELIEF**


WHEREFORE, Plaintiff prays:

- (a) for a permanent injunction against further infringement of the '045 Patent by Defendant, its officers, directors, employees, agents, licensees, servants, successors, and assigns, and any and all persons acting in privity with them, either directly or by inducing others to infringe;
- (b) for an accounting to establish Plaintiff's damages and for judgment against the Defendant;
- (c) for an award of Plaintiff's damages as assessed by the accounting and that such award of damages be increased three times the amount assessed under 35 U.S.C. § 284;
- (d) for an assessment of costs against Defendant;
- (e) for a finding that this action is exceptional and for an award to Plaintiff of its reasonable attorney fees incurred in this action under 35 U.S.C. § 285; and

(f) for such other and further relief as may be required and appropriate.

Respectfully submitted,

Dated: 10/03/03

By:   
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**PLAINTIFF'S DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Rule 2:5.1 of the Local Rules of this Court, Plaintiff Zinsser Co., Inc. hereby demands a jury trial.

Dated: \_\_\_\_\_

10/03/03

By: \_\_\_\_\_

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